

REMARKS

The above application has been carefully reviewed in light of the first Office Action dated February 18, 2009. All of the claims have also been rejected under 35 USC 102 as anticipated by the patent to Stein, 5,282,343.

Additionally the claims have been rejected under 35 USC 112 as failing to particularly point out and distinctly claim the subject matter of the invention. Claims 1 and 3-5 have also been rejected as indefinite.

A sincere effort has been made herein to completely review the specification and claims of record in order to make the invention more clearly understood. All of the claims have been rewritten to avoid any indefiniteness and to more clearly state the invention in terms more conventional under U.S. practice.

Claims 3, 4, and 5 have been cancelled and two new claims 11 and 12 have been inserted to take the place of claims 3 and 4.

There is only a single parent claim in this case, namely claim 1.

In order for a prior art reference to anticipate under 35 USC Sec. 102, it must disclose all elements of the claim within the four corners of the single document and must disclose those elements arranged as in the claim. See the recent case,

Net MoneyIN Inc. v. VeriSign Inc. 88USPQ2d 1751 (Fed. Cir. 2008).

It is necessary under the holding in this case that the anticipatory reference show all limitations of the claim arranged or combined in the same manner as recited. See also, *Xerox Corp. v. 3Com Corp.* 80 USPQ2d 1916 (Fed. Cir. 2006)/

Applicant contends that the application of the Stein patent in formulating this Sec. 102 rejection does not meet the criteria set forth in the law as stated in the cases cited above and many others.

Applicant has invented a cogging piece or connector element useful in the assembly of real or artificial logs for construction of walls used in houses or other log structures.

During the notching process, the cogging piece shown as 1, which is connected to a constructional element such as a log 2, is positioned closely adjacent to a similar cogging piece which is oppositely directed and which is connected to an end constructional element shown at 9, so that the plane end surfaces 8 of the cogging pieces rest tightly against each other.

As set forth in the claims, the cogging piece has two upper axial projections 41, and 4b, whose inner lateral surfaces are planar *inclined* surfaces (4at and 4bt) that taken together define a downwardly tapered wedge-shaped area 4s between the projections.

The Examiner has asserted that the Stein patent shows lateral and axial inclined surfaces 10 and 12. Applicant strongly disagrees with this interpretation of the reference.

From a careful examination of the Stein figures, it appears that one surface faces axially and the other one faces laterally. These seem to be vertical surfaces, not inclined surfaces. No lateral inclined surfaces appear in Stein.

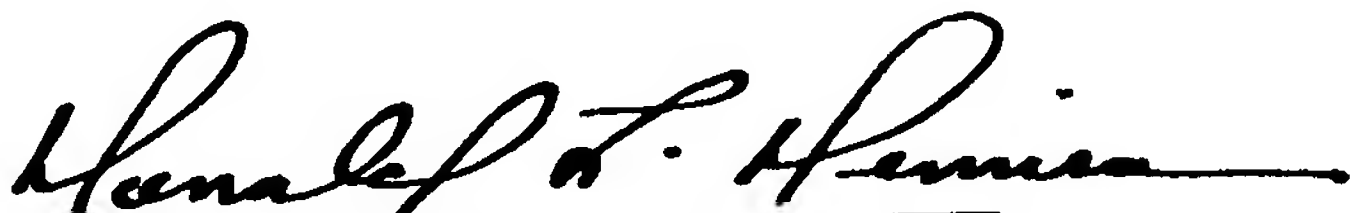
Stein provides notched or notch-like recesses 18 (see column 4, lines 18-21) that are defined by axially inclined edges or surfaces at both sides, as seen in Fig. 2. Elements 10 are referred to as semi-circular flaps.

The critical and defining element of Applicant's claim is the laterally inclined surface which is not present in the Stein disclosure. This construction results in a very tight joinder of the constructional elements obviating air gaps and the problems associated with such gaps.

Each of the secondary references (B through M) made of record by the Examiner, but not otherwise referred to in the Office Action, have been reviewed but are not believed to be significant relative to patentability of the present claims.

In view of the Amendments noted above as well as the legal arguments submitted, reconsideration of the rejection of the claims is solicited with a view toward allowance and an early and favorable action is solicited.

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April 23, 2009